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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,454	12/07/2000	Terry Si-Fong Cheng	19-14-17	6550
32361	7590	12/17/2004	EXAMINER	
GREENBERG TRAURIG, LLP MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166			TSEGAYE, SABA	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,454

Applicant(s)

CHENG ET AL.

Examiner

Saba Tsegaye

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-17 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The office action is in response to the amendment filed 07/12/04. claims 1-17 are pending. Claims 13-17 are allowed; claims 1-12 are rejected.

Claim Rejections - 35 USC § 102

2. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Salonaho et al. (US 6,594,495).

Salonaho discloses, in Fig. 2, a method of determining the reverse link data rate limit for a mobile station of a high data rate system comprising the steps of:

adding together the rates at which data is being transmitted from each mobile in a common sector to obtain an aggregate rate (column 5, line 66-column 6, line 3),
obtaining a moving average of the aggregate rate (column 6, lines 3-7), and
normalizing the aggregate rate to generate an estimate of the maximum aggregate reverse link rate (column 6, lines 3-31).

Regarding claim 2, Salonaho discloses the method wherein the sum obtained by adding the rates at which data is being transmitted is for each mobile during a common frame (column 5, lines 8-12).

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Regarding claim 3, Salonaho discloses the method further comprising the step of comparing the estimate of the maximum aggregate reverse link rate with a set of threshold values to obtain a maximum rate limit for the mobile station (column 6, lines 3-31).

Regarding claim 4, Salonaho discloses the method further comprising the step of setting the rate at which data is transmitted from a mobile to be equal to or less than the obtained maximum rate limit (column 6, lines 3-31).

Regarding claim 5, Salonaho discloses the method further comprising the step offsetting the rate at which data is transmitted from a mobile to be equal to or less than the obtained maximum rate limit (column 5, lines 8-20; column 6, lines 3-59).

Regarding claim 6, Salonaho discloses the method wherein the normalizing step comprises multiplying the aggregate by the ratio of the aggregate data rate of the active mobiles divided by the maximum data rate limit of the reverse link (column 6, lines 3-59).

Regarding claim 7, Salonaho discloses the method wherein the step of obtaining a moving average of the aggregate rate comprises the step of adding the aggregate rate for a single frame to an average of the aggregate rate of preceding frames (column 6, lines 3-59).

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3. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salonaho et al. in view of Alcatel (EP 1100283).

Salonaho discloses all the claim limitations as stated above except for a window of a fixed number of frames.

Alcatel teaches a moving average cell load calculated over a sliding window. Further, Alcatel teaches that modifying the maximum allowed cell load or maximum equivalent parameter value for new call admission, by increase or decrease, when the number is different from a given admissible outage threshold value.

It would have been obvious to one ordinary skill in the art at the time the invention was made to add a system that uses a window of a fixed number of frames, such as that suggested by Alcatel, to the system of Salonaho in order to make the scheme more robust to abrupt cell load variations due to the arrival of new calls (column 5, lines 25-39).

Allowable Subject Matter

4. Claims 13-17 are allowed.

Response to Arguments

5. Applicant's arguments filed 07/12/04 have been fully considered but they are not persuasive. Applicant argues, (Remarks, page 7), that Salonaho does not deal with ***rates of data*** as in the present invention. Salonaho considers the signal strength characteristic of a signal and not the data rate in making its calculations. The Examiner disagrees with applicant contention.

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Salonaho clearly deals with rates. The power measurement is used to calculate data rates (by measuring power they measuring data rate). A combined total strength of signals and interference formed a load L. Measures are taken to balance the load by comparing the load result to threshold value or the load goal in order to know whether a change in data transmission rate is needed (column 5, lines 9-35; column 6, lines). Further, Salonaho discloses in the second method of invention (Fig. 4): adding together the rates at which data is being transmitted from each mobile in a common sector to obtain an aggregate rate (column 6, lines 25-35); obtaining a moving average of the aggregate rate (column 6, lines 41-58) and normalizing the aggregate rate to generate an estimate of the maximum aggregate reverse link rate (column 9, lines 1-20).

Still on page 7, Applicant argues that Salonaho fails to disclose a “high data rate system”. *Therefore, the techniques of Salonaho may not be compatible with the current invention.* Examiner disagrees with applicant contention. Claim 1, of the current invention deals with *reverse* link. On page 5, the specification (the current invention) discloses that the system can transmit up to 153.6 Kbps on reverse link. Salonaho discloses a system that can transmit from 1 to 50 MHz. Therefore, the techniques of Salonaho is compatible with the current invention.

On page 8, Applicant argues that Salonaho fails to teach the step of “obtaining a moving average of the aggregate rate”. Examiner disagrees with Applicant assertion. Salonaho clearly discloses this limitation, see column 6, lines 41-55.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

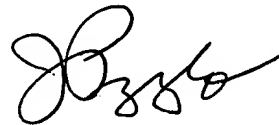
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saba Tsegaye whose telephone number is (571) 272-3091. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ST
December 10, 2004



JOHN PEZZLO
PRIMARY EXAMINER